

1 are marked now: Q-1(A) Q-1(B) and Q-1(C). And
2 Q-1 (B) Q-1 (C) were fired from the same firearm.
3 Q-1 (A) was not.

4 We know two of these three shell casings
5 were fired from the same gun and one was not. I
6 cannot tell you where they came from. I don't
7 know if the one in the car doesn't match the other
8 two. I don't know if the one in the car might
9 have matched the one recovered from the street. I
10 can tell you that is not a fatal flaw in the case.
11 It's not. It's a case of identity. Did Fredrick
12 Hall shoot these two individuals on October 17,
13 1998? The evidence says beyond a reasonable doubt
14 that he, in fact, did.

15 There were some other exhibits contained
16 in here. I think they were photographs of shell
17 casings, where they were recovered; a little bit
18 of the Johann Hart's blood in the street, where
19 the defendant left him as he sped off in the car.
20 Here's the defendant in the infamous black jacket
21 that came across one of those reports.

22 Take a look at these medical records
23 quickly. Let's look at Defendant's Exhibits 13
24 and 14 that we stipulated to. Defendant's
25 Exhibits 13 and 14 are medical records from the

1 defendant's gunshot wound that he received a
2 couple weeks prior to this shooting. And I know
3 there is a date on here somewhere. But look
4 through the medical reports.

5 The defendant, on the witness stand,
6 talked about being shot in the arm -- this arm
7 that he can't use. But it doesn't seem to inhibit
8 him from tying his shoes and putting his tie on,
9 taking his sling off and showing you where that
10 bullet wound was with that arm that was going to
11 disable him or not allow him to drive the car.

12 He was, in fact, shot; there is no
13 question about it. But look at the medical
14 reports. He didn't report it for like three, four
15 or five hours after it was done. He claims he got
16 robbed, he claims he got shot, and he doesn't go
17 to the hospital immediately.

18 When he does go to the hospital, he
19 doesn't file a police report about being robbed.
20 Let's see, he goes in the hospital for a gunshot
21 wound, and what is the history of the present
22 illness? "The patient is a 42-year-old
23 Afro-American male with a past history" -- I
24 cannot pronounce, but -- "stab wounds and other
25 gunshot wounds." He has been stabbed before. He

1 has been shot before. Handguns are nothing new to
2 Mr. Hall. Judge Martin will indicate to
3 you that one of things that you're called upon to
4 assess is the credibility of witnesses that you
5 hear from, including the defendant. One of the
6 ways you test the credibility of witnesses is you
7 use your everyday test that you use in every day
8 life.

9 One of the things that you're allowed to
10 consider for credibility purposes are prior felony
11 convictions. When the witness was up on the
12 stand, I asked him, "Have you been convicted of a
13 theft offense or any other type of felony
14 offense?"

15 "Yes." He's been convicted of receiving
16 stolen property from '89; receiving stolen
17 property of a motor vehicle -- receiving stolen
18 property of a motor vehicle, burglary, CCW. He
19 was just in a car where a handgun was located up
20 in Dayton. You can consider those for purposes of
21 assessing the defendant's credibility.

22 I want to talk a little bit about the
23 fleeing and eluding. There is no question that
24 the operator of the car was the defendant, and his
25 operation of a motor vehicle after Officer Bailey

1 turn on the lights and siren is, in fact, fleeing
2 and eluding. That created a substantial risk of
3 serious physical harm to anybody on the street --
4 60 to 70 miles an hour in a 35-mile-an-hour zone,
5 running red lights and stop signs.

6 Ladies and gentlemen, listen carefully to
7 the instruction on reasonable doubt that Judge
8 Martin gives to you. It's evidence of such
9 character that you would be willing to act and
10 rely upon it in the most important of your own
11 affairs.

12 Ladies and gentlemen, consider
13 the testimony of Johann Hart, consider the
14 testimony of Kevin Davis, consider the testimony
15 of Officer Bailey, consider the testimony of
16 Officer Huffman, consider the testimony of Officer
17 Eatrides, consider the testimony of Officer Neack,
18 and see if this is just some big conspiracy these
19 individuals have hatched to railroad him.

20 We have got all of these witnesses on
21 this side. Credibility shouldn't be questioned
22 the identification process was made versus the
23 defendant who says, "They are all wrong. I wasn't
24 there. I didn't do it. I don't know what you're
25 talking about. I was just out buying shaving
 cream."

1 Ladies and gentlemen, carefully consider
2 the evidence, assess credibility of the witnesses
3 that you have heard from, reach a true and just
4 verdict in this case, a true and just verdict in
5 this case of guilty, as charged, against that
6 defendant, Fredrick Hall, on all four counts of
7 felonious assault, two for using a handgun to
8 shoot Johann Hart in the street, two for using a
9 handgun to shoot down Kevin Davis in the street,
10 two for attempted murder of Johann Hart and Kevin
11 Davis and one for fleeing and eluding.

12 Judge Martin will also read to you what
13 are called specifications. There are three
14 specifications contained in each of the first six
15 counts. Specification 1 is that the defendant had
16 on or about his person or under his control, a
17 firearm, while committing the offenses.

18 Specification Number 2 is that the defendant
19 had on or about his person or under his control,
20 and he possessed a firearm, he brandished it,
21 indicated he possessed it, or used it to
22 facilitate the offense.

23 And the third specification is that the
24 defendant fired the firearm from a motor vehicle,
25 and again, the evidence is by proof beyond a

1 reasonable doubt that this defendant, Fredrick
2 Hall, in fact was the shooter on October 17, 1998.

3 THE COURT: Thank you, Mr. Anderson.

4 Mr. Rader.

5 MR. RADER: Your Honor, would a
6 ten-minute recess be appropriate?

7 THE COURT: I don't know. Let's just
8 do it.

9 Does anybody on the jury need to take a
10 break to go to the bathroom? If you do, say so.

11 Let's just go forward.
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1 Mr. Rader.

2 MR. RADER: Your Honor, would a
3 ten-minute recess be appropriate?

4 THE COURT: I don't know. Let's just
5 do it.

6 Does anybody on the jury need to take a
7 break to go to the bathroom? If you do, say so.

8 Let's just go forward.

9 MR. RADER: Good morning, ladies and
10 gentlemen. An older appellate judge once said to
11 me, "Let's have a little more light and a little
12 less heat," and I'm going to make every effort to
13 shed some light on this situation -- sort the
14 evidence out, if you will.

15 I have a feeling, ladies and gentlemen,
16 as a preliminary matter that I want to address to
17 you. I hope that when you ladies and gentlemen go
18 home and talk to your families about this case and
19 your friends that you will tell them that you had
20 a wonderful time, that it was a good experience,
21 and I say that because I have a great respect for
22 the jury system.

23 There are blemishes. The blemishes are not
24 the system. The blemishes are the shortcomings of
25 the people participating in the system. I cannot

1 think of voting and sitting on a jury. I hope you
2 can go home and say, "I had a great experience --
3 a wonderful experience. I saw how the jury system
4 works. It's marvelous." The shortcomings are not
5 in the system. The shortcomings are human
6 frustration.

7 Office Officer Bailey was the officer at
8 the corner of McMillan and Gilbert. He came into
9 court and said that the car stopped for a red
10 light and that Mr. Hall looked at him, and he was
11 sitting there in his car. Mr. Hall was sitting
12 right next to him, and he got a good look.

13 Ms. Zucker brought out on cross-examination
14 quite a different scenario. If I can quote from
15 that testimony on cross-examination: "Right. And
16 he, as he passed me, he looked at me. I looked
17 back. He proceeded to the intersection. He had
18 the green light. I pulled away from the curb, and
19 at that point, Mr. Hall began to flee in his
20 Honda. And for -- at that point, he came up
21 behind me. He was traveling, you know, at the
22 speed limit, or, you know, about as fast as the
23 rest of the traffic coming through there." Ladies
24 and gentlemen, that's exactly what he said.

25 My job, at this point, is to comment on

1 the law and the evidence in a helpful way.

2 The prosecutorial mechanism in this case
3 has tried to belittle Mr. Hall's injury. In
4 regard to his injury, please recall what Officer
5 Huffman said today, that his procedure is to
6 handcuff people's hands behind their back. He
7 believes after daylight they rode back up to
8 Windsor, and Mr. Hall's hands were handcuffed
9 behind his back.

10 You saw Mr. Hall stand up here, take his
11 arm, and move this bone around that's not
12 connected to his elbow. They say "seeing is
13 believing," but that fact, ladies and gentlemen,
14 is documented by the Justice Center infirmary
15 medical records. And you'll have those with you
16 to factor in your deliberation.

17 You'll have the University of Cincinnati
18 hospital records. And if you'll go through the
19 doctor's notes, which are in long hand -- and no
20 doctor can write so we can read it -- but if you
21 go to the first typewritten page in that report
22 from University Hospital, the second typewritten
23 page. If you will take the time to read that
24 second typewritten page, it will tell you that the
25 bone was fractured and severed. It will tell you

1 which digits of his finger had nerve damage and
2 numbness, just as Mr. Hall described to you on the
3 witness stand.

4 Now, if you take -- this evidence was
5 shown to you in court -- the medical records. If
6 you take that evidence that he has an arm injury,
7 that sort of has implications. Mr. Hall sat on
8 this witness stand and told you, yes, he could
9 drive the car, that he went to get the car, and he
10 can drive the car by putting his knee up against
11 the steering wheel as he shifts, essentially
12 driving with one hand. That's what he said.

13 Now, let's compare that with driving with
14 this arm in this condition through an 80-mile-
15 an-hour chase through twisting, winding streets
16 over around Eden Park with a standard shift
17 automobile with the arm in the condition as it's
18 described on the second typewritten page in the
19 University Hospital report.

20 Ladies and gentlemen, that is going to
21 cause you a doubt: An eighty-mile-an-hour chase,
22 winding streets, in a standard-shift automobile,
23 compared to that medical report.

24 The other half of this is, coming out of
25 the implication of this arm injury, why Fred Hall

1 was handcuffed on the street, and he was taken
2 into custody at 3:43 a.m. on October 17th. And
3 the radio tapes, et cetera, will show you
4 conclusively beyond any doubt exactly what time
5 that he left. "5:11 a.m., advised tow truck just
6 left, enroute with individual handcuffed."

7 From 3:43 to 5:11 a.m., an hour and 25
8 minutes, Fredrick Hall was sitting in a police car
9 with his hands handcuffed behind him with the
10 injury that's described to you through the
11 University of Cincinnati medical reports -- that
12 injury, by the way, occurred -- again, relating to
13 the medical records -- on the third of October,
14 exactly 14 days prior to this incident.

15 If you have a bone shot in your arm and
16 substantial nerve damage, if you can imagine
17 sitting in this police car handcuffed, sitting on
18 your hands, ladies and gentlemen, for an hour and
19 25 minutes, what if that happened to you? Is that
20 going to raise your blood pressure? Are you going
21 to tell somebody, "Hell, I went out and got
22 shaving cream"? Can you understand the disgust?
23 Can you understand the intimidation? Can you
24 understand a citizen's feelings of being
25 mistreated?

1 Now, the police, as you know -- I know you
2 know -- the police tried to characterize this, "I
3 went out to get some shaving cream," as an
4 inculpatory admission of guilt. And I just ask
5 you: Is this an inculpatory admission of guilt,
6 or was Mr. Hall in pain? Was he under duress?

7 And ladies and gentlemen, back in the jury
8 room, you just read that second page of the
9 typewritten material, and I ask you to think about
10 him sitting on his hands and arms for an hour and
11 25 minutes.

12 The police talked about Mr. Hall making
13 statements, and ladies and gentlemen, the Judge is
14 going to give you an instruction. His Honor, the
15 Judge -- let me clarify that when I'm talking to
16 you, I can say "the Judge." If I'm talking to
17 him, it's your Honor. I have done that without
18 exception. I have great respect for the Court. I
19 can say the Judge to you but not to him.

20 His Honor will give you an instruction that
21 we don't contest. We don't contest the legal
22 notion that a person can voluntarily make an
23 admission but refuse to waive their rights. We
24 submit that's technically possible.

25 But what are the implications or the

1 ramifications of this? Our contention is that he
2 made no inculpatory admissions of guilt at all in
3 this case. The best one that we have heard is
4 that he was out buying shaving cream.

5 And do with that whatever you're going to
6 do with the shaving cream, ladies and gentlemen.
7 That's a statement that comes out of pain and
8 frustration. That has nothing to do with this
9 case at all. It's irrelevant, immaterial, and it
10 has nothing to do with this case. It's a common
11 frustration.

12 On the topic of statements, there is simply
13 no written statement in this case.

14 I submit to you that if I were a police officer,
15 if a person was willing to make a statement, I
16 would make every effort to get that statement in
17 writing. There is not a statement here that we
18 can analyze and review and deal with confidence.

19 There is a cloud over this statement
20 business. Why would a person refuse to sign a
21 waiver? Why would a person who is voluntarily
22 going to talk to the police, why would he not sign
23 a waiver? Although, technically, as I said, you
24 can refuse to sign the waiver, but go ahead and
25 voluntarily make admissions and talk to the

1 police. That's technically possible. In your
2 common sense experience, which you're going to
3 apply in this case, why would a person refuse to
4 sign a waiver if it was their intent to talk to
5 the police to deal with the police and to make
6 statements?

7 I don't know how to pronounce this --
8 Officer Eatrides, the officer who was with the
9 lady officer, arrived at Fulton Street at 3:38
10 a.m. Ladies and gentlemen, this is a brief
11 summary of this evidence to try to shed some light
12 on this situation: The police came to the door.
13 Mrs. Hall told them that Dexter wasn't there, but
14 she gave him a description of Dexter, and that
15 came out on the radio stuff, computer printout,
16 radio log, recording, et cetera. And she told
17 them that this was her car, no question about
18 that.

19 The police came back about a half-hour
20 later, and she admitted to them that Dexter was
21 there, and he was arrested and taken down to the
22 juvenile detention center. After the police
23 arrived there at 3:38 and had this brief
24 conversation, the car was found at Windsor at
25 3:43.

1 From the tape, you can figure it out. And
2 there is just an overlap of ten seconds,
3 whatever, and it makes it difficult to listen to
4 the tape. But you can listen for yourself.
5 There was as little as three minutes -- depending
6 how the seconds fall on each end -- there was as
7 little as three minutes between the time that the
8 police arrived at Fulton and the time that the car
9 was found on Windsor.

10 If you listen to the tape and verify that
11 it's between five minutes and three minutes,
12 depending upon how the seconds fall, it's obvious,
13 ladies and gentlemen, that when the police arrived
14 at Fulton, that Dexter was at home, and Mr. Hall
15 was at the car or almost to the car or whatever in
16 the area of Windsor when the police arrived at
17 Fulton. It's not real complicated if you listen
18 to the tape to figure out the time, the three
19 minutes difference between the police arriving at
20 Fulton, getting a description of the car and the
21 finding of the car on Windsor.

22 It is apparent that Mr. Hall was approaching
23 that car in the vicinity of that car and that
24 Dexter was at home. It seems to me the police --
25 the prosecution have tried to make something out

1 of that.

2 Officer Huffman submitted a latent
3 fingerprint, a fingerprint that was taken from the
4 car to the lab, and he also submitted it with a
5 fingerprint from Fredrick Hall. The fingerprints
6 didn't match.

7 Now, ladies and gentlemen, it's my job here
8 to shed some light here on the situation. And I'm
9 just going to tell you that if you think about
10 your automobile, how many people touch that
11 automobile and how many fingerprints are probably
12 on that automobile, that the chance of one
13 fingerprint matching any particular person is not
14 great. As a matter of fact, it's very remote.

15 So Officer Huffman submitted this
16 fingerprint. We don't know where it came from on
17 the car. He submitted it, and it didn't match.
18 Now, I'm not going to insult you and tell you that
19 is a substantial important piece of evidence,
20 because there are fingerprints all over the car.
21 There are fingerprints on the tires from the last
22 person who fixed a flat -- you are see what I mean
23 -- but it wasn't Fredrick Hall's fingerprint.

24 Three cartridge cases were submitted to the
25 fingerprint specialist for analysis. Ladies and

1 gentlemen, Officer Huffman sat here and told you
2 that it's police procedure fundamentally to mark
3 evidence where you get it. Yet these cases were
4 submitted to the lab for analysis for
5 fingerprints, and there was another report, which
6 is a prosecutor's exhibit, for the firing pen
7 marks.

8 We paid for better police work than we got
9 as to this particular evidence. We should know
10 where those cases came from. Two of them came
11 from the same gun; one of them didn't. I just ask
12 you rhetorically: Was the one in the car from
13 being robbed 14 days earlier? I don't have a
14 clue. We need to know that. It's not Fredrick
15 Hall's fault that that evidence is not here before
16 you.

17 You may think there is an undercurrent here,
18 an undercurrent that maybe there is a
19 self-fulfilling prophesy. The police think that
20 they know something, and then they to make it
21 true. They didn't try -- they didn't try to
22 disprove their own case.

23 I think everybody on this jury panel is
24 familiar with gunshot residue tests on people's
25 hands. The police think they know, so they are

1 not going to do a gunshot residue test. They are
2 not going to destroy what they think is their
3 case.

4 Officer Huffman said there is a two-hour
5 limit on that because a person might wipe their
6 hands off in the grass or wash their hands. Let
7 me tell you, if a person washed their hands,
8 washed it all off, then the test results are
9 meaningless. But what if they don't wash off
10 their hands and the test is given three, four,
11 five, six hours later? That's evidence that you
12 could use. That's conclusive evidence. And in
13 this class of cases and the magnitude of the case,
14 we need that evidence.

15 An officer comes up and in 20 years he
16 has never done this test. He has no training in
17 this test. The exhibits weren't marked -- the
18 shell cases. We don't know where they came from.
19 He has never had any training in gunshot residue
20 tests -- never used it in 20 years.

21 I think that factual pattern, that's what I
22 mean by "undercurrent." I think it fits a pattern
23 in this case.

24 They say that Officer Huffman went to
25 Windsor to look for the gun with Fred Hall. They

1 said Fred Hall went voluntarily. Let me tell you,
2 ladies and gentlemen, Fred Hall was under arrest.
3 He didn't go anyplace voluntarily. He was under
4 arrest. What is the logic of telling the police,
5 "Okay. I'll show you where the gun is, but I
6 won't put that in writing? I'm not going to put
7 that in writing. I'm not going to sign my waiver
8 form. I'll cooperate with you. I will show you
9 where the gun is," and then go up there and not
10 find the gun. The only thing that you have done
11 then is incur the wrath of the policeman. You
12 have not done anything to your benefit. What is
13 the logic?

14 The logic in that is Officer Huffman got him
15 in the car, took him up there, they looked for the
16 gun, thought they might get lucky and find it, and
17 the fact is he didn't find it.

18 Ladies and gentlemen, I have said twice
19 already, and I'll say it again, this is a
20 profoundly serious case. When you read the
21 indictment in this case or the instructions as it
22 relates to the indictment, it will be become
23 completely clear how important this case is. This
24 tape is aggravating to listen to, but you will
25 have that tape back in the jury room with you with

1 a recorder. If you can't get the recorder to work
2 or have problems with it, the Judge will give you
3 instructions about how to communicate that.

4 The license number in this case came out at
5 0321 on the tape thanks to the good efforts of
6 Officer Fromhold. There was an indication of a
7 person with a white T-shirt being in the car. I'm
8 not going to characterize this -- I'm telling you
9 this is on the tape and where, and I'm begging
10 your indulgence to listen to it -- but a white
11 T-shirt at 3:23. There are three occupants, two
12 in front, one in back, male black, dark hat,
13 suspect Dexter Hall, male black, passenger, 19 to
14 20, medium complexion, black ball cap.
15 Black jacket. Clean shaven shooter. Passenger,
16 male black, black baseball cap, clean shaven,
17 medium build, black jacket. 3:45.

18 This case is of such magnitude, ladies and
19 gentlemen, I ask you to listen to that tape to
20 verify what is on it. And it's got a rewind
21 button. If you will be a good enough citizen,
22 good enough people to verify what is on that tape,
23 to listen to it yourself in the original voices,
24 in the original voices, real time and see what is
25 there.

1 Officer Fromhold was apparently the first
2 officer on the scene -- bicycle patrol. And I was
3 sincere when I indicated to him, it's excellent
4 police work having this license number out very
5 quickly. But let's address the issue of the
6 number of people in the car. I think we are
7 getting closer to the fundamentals of this case.

8 Johann Hart said that the crack head got
9 into the car briefly and got back out. Do you
10 remember Jimmy Martin, who kept repeating the
11 license number, and the license number was, in
12 fact, correct. Jimmy Martin saw this and he was
13 concerned enough to repeat that license number
14 over and over to try to help the police. Is he
15 going to mislead the police in some other way?

16 Some of the information that Officer
17 Fromhold testified to that he got from Jimmy
18 Martin was male black, dark cap, 20 to 21, three
19 people in the car. Officer Fromhold said in his
20 testimony, "I recall him explaining to me that it
21 was one of the two people in front; and the one in
22 the back, I don't recall where the person in the
23 back was seated, what side of the vehicle."

24 Now, this is information that Jimmy Martin
25 gave Officer Fromhold, and Officer Fromhold relays

that to us in court, in person: I don't recall where the person in the rear was, but I do recall him explaining to me that it was one of the two people in the front; and the one in the back, I don't recall where the person in the back was seated, which side of the vehicle.

Another comment attributed to Jimmy Martin from Officer Fromhold: He told me there were three, and one jumped out of the car. Now, I want you to compare Officer Fromhold's implication from Jimmy Martin with Officer Fromhold's analysis of what Lolita Moore said.

This is what Lolita Moore told Officer Fromhold: She was, I believe, west of the crime scene and saw the vehicle proceed past her, start to make a turn, and multiple gunshots rang out. She said somebody exited the vehicle and went over to the fallen victim. The other subject, Mr. Davis, had run -- let me back up a minute.

She said somebody had exited the vehicle, went over to the fallen victim -- the other victim, Mr. Davis had already run away -- and goes through his pockets and runs back to the vehicle and got back to the car and takes off.

Lolita Moore is telling Officer Fromhold

1 that she saw somebody, one of the three, jump out
2 of the car, go over, rifle through Johann Hart's
3 pockets, because Mr. Davis had already run out of
4 the area. Compare that with Jimmy Martin's
5 statement to Officer Fromhold, that he told me
6 there were three and one jumped out of the car.

7 Ladies and gentlemen, there's got to be some
8 credibility from these people on the street that
9 are talking to the police and trying to assist
10 them. I think this is a very important
11 revelation, and, again, it's from Jimmy Martin to
12 Officer Fromhold on the scene. He heard the first
13 gunshot, then turned to see the vehicle driven by
14 somebody hanging out the window shooting, and
15 that's when he saw the rear of the vehicle proceed
16 southbound and he made a mental note of the
17 license plate.

18 Ladies and gentlemen, there is no other
19 evidence in this case of that quality and
20 reliability. He heard the first gunshot, then
21 turned to see the vehicle driven by somebody
22 hanging out the window shooting, and that's when
23 he saw the rear of the vehicle proceed southbound
24 and made a mental note of the license plate.

25 That statement rings more true than

1 anything in this case. You cannot believe that he
2 got this license number correct and believe the
3 identification and rendition of Johann Hart and
4 Kevin Davis, too. You cannot do both.

5 Kevin Davis started out by saying that he
6 watched the car from across the street for a half
7 an hour. And there is some more questioning from
8 the prosecutor and he said 15 minutes. They
9 settled on 15 minutes.

10 Johann Hart said he talked to him for four
11 minutes, five minutes. Notice, too, that Kevin
12 Davis says that he never saw his hands. Johann
13 says he, all of a sudden, started waiving his
14 arms, waiving his hands. Relate that to the
15 injury of Mr. Hall's arms, but more importantly
16 relate this to the statement from Jimmy Martin,
17 the statement that resulted in the license plate
18 being broadcast.

19 This is a drive-by shooting; that describes
20 a drive-by shooting. Both the statement of Lolita
21 Moore and Jimmy Martin describe a drive-by
22 shooting, somebody hanging out the window
23 shooting. That is a drive-by shooting.

24 Again, Lolita Moore saw the vehicle
25 proceed past there, start to make the turn,

1 multiple gun shots rang out. Ladies and
2 gentlemen, that is a drive-by shooting.
3 It's is totally diametrically opposed to the
4 statements of Johann Hart and Kevin Davis.

5 Let me talk about something ancillary
6 here for a minute. These cartridge cases that
7 were mishandled, Officer Fromhold found those.
8 They were 35 feet apart. 35 feet apart. How
9 could they get to be 35 feet apart other than
10 evidence to corroborate the story told to you by
11 Lolita Moore, that this car was traveling and
12 somebody was hanging out the window shooting.

13 Now, somebody will probably put the spin
14 on this case that this was just another casing
15 laying around, just another cartridge case laying
16 around. But somewhere it was said -- that's what
17 I'm looking for, and I can't find it -- he says,
18 "That's rare to find cartridge cases on the
19 street." What's the probability or possibility of
20 finding the cartridge cases of the same rank and
21 same caliber within 35 feet on the same day at the
22 same time?

23 I found that. I can quote to you
24 directly from Officer Fromhold. "That's unusual
25 to find shell cases in that area.

1 "Question: That shell case was also
2 recovered from the scene, correct?

3 "Yes."

4 Ladies and gentlemen, the scene is the heart
5 of this case. You cannot believe the testimony of
6 Johann Hart and Kevin Davis and believe this
7 testimony from the two witnesses on the stand --

8 MR. ANDERSON: Objection, your Honor.

9 THE COURT: Sustained.

10 MR. RADER: And then you also have a
11 problem with the identification of Johann Hart and
12 Kevin Davis. If you have problem with their
13 identifications in the photo lineup, it is part
14 and parcel of that, based on what they claim they
15 saw sitting still in the car, carrying on this
16 conversation, they claim that is the basis of the
17 identification. They claim that's where they saw
18 Fred Hall.

19 If that opportunity did not happen, if it
20 did not happen as they say it happened, if it
21 happened as the other people say it happened --
22 and the photo identification is part and parcel of
23 this misrepresentation to us about what happened.
24 And was this a drive-by shooting? Was this a
25 15-minute or a 30-minute deal? When you answer

1 that question, things start to fall into place.
2 Shell casings 35 feet apart. There is the license
3 number being broadcast.

4 His Honor, the Judge, will give you these
5 written jury instructions to take with you. I
6 said in opening statement, these words are chosen
7 with profound care over hundreds of years. His
8 Honor will tell you with great care how you are to
9 use proof beyond a reasonable doubt, the doubt
10 that would concern you in the most important of
11 your own personal affairs.

12 Is buying a car one of your most
13 important affairs, or is it buying a house?
14 Buying a house. Think about that. Buying a
15 house. If anybody came up to you in this case and
16 tried to sell you a house, you would walk away
17 from them, absolutely stone flat walk away from
18 them.

19 Don't do to Fred Hall what you wouldn't do
20 purchasing your own house. If this is so
21 uncredible, so confusing, so ill prepared that you
22 would not rely on it in the most important of your
23 own affairs -- buying a house -- if you would turn
24 around and walk away from it, then, ladies and
25 gentlemen, turn around and walk away from this

1 case. Don't convict this man on this kind of
2 evidence, ladies and gentlemen.

3 I'm proud to have the opportunity to talk to
4 you. We are content to leave it in your hands.
5 Thank you very much

6 THE COURT: Mr. Anderson, you have 18
7 minutes left if you need it.

8 MR. ANDERSON: Thank you, your Honor.

9 There is an interesting thing that
10 occurred throughout the course of this case, and
11 that is this: We just heard Mr. Rader allude to
12 the testimony of Jimmy Martin and Lolita Moore,
13 and we all know that Jimmy Martin and Lolita Moore
14 were never present in Court.

15 Despite the efforts of the State, Mr.
16 Rader and Ms. Zucker, they couldn't be found.
17 They didn't testify here. And the interesting
18 thing about it is that the Court, upon my
19 objection, could have prevented you from hearing
20 anything about those people. I could have
21 prevented Mr. Rader from getting into the
22 descriptions that they gave, the number of
23 occupants of the vehicle and everything else they
24 said based on hearsay, I could have objected to,
25 and the Judge could have sustained it. And you

1 never would have heard anything about it.

2 I didn't think that it was fair in this
3 case. I didn't think that it was reasonable
4 because Lolita Moore and Jimmy Martin were there.
5 Jimmy Martin did give a license plate number.
6 Lolita Moore did see the car drive by. But it
7 wasn't fair for you not to hear it, although you
8 didn't get chance to hear them testify. Because
9 they didn't, you didn't get a chance to assess
10 their credibility, because they were not here.

11 Let's talk about the problem with the
12 identification by Johann Hart and Kevin Davis.
13 There is no problem with the identification. If
14 this defendant, Fredrick Hall, wasn't the gunman,
15 how could those two individuals pick them out
16 independent of each other? They couldn't. They
17 saw him. He was there with the gun.

18 What about the identification by Officer
19 Bailey? He was wrong, too? I haven't heard any
20 dispute -- there's been no dispute by defense
21 counsel that this car with this license plate
22 number wasn't used in the shooting. There is no
23 dispute. Somebody has to be driving the car.
24 Somebody has to be behind the wheel.

25 Kevin Davis and Johann Hart said it was

1 the defendant. Officer Bailey said he chased the
2 defendant. In opening statement, I wrote this
3 down, part of opening statements was the facts
4 that are going to come out are this: Dexter Hall
5 came home and told his dad that the police were
6 following me. Dexter Hall came into the house in
7 a panic with the car keys and told his dad that
8 the police were following me, and based on that
9 information, that that's why Fredrick Hall went to
10 the car on Windsor. But we know that's not true.
11 Look at the defense exhibits themselves. Look at
12 the time frame between when the police arrived on
13 the scene at Fulton, which is where they were
14 living Eatrides and a few other officers were on
15 the scene while the car chase was going on.

16 How was Dexter Hall, if he was involved in
17 this -- and that's what the defense is attempting
18 to allude to somehow -- Dexter Hall and his
19 buddies were the ones involved -- how would Dexter
20 Hall have gotten past Officer Bailey, and Officer
21 Bailey makes a bad identification? How would
22 Dexter Hall get from that car into his house and
23 past the police? How would he have time to tell
24 daddy and give him the keys and then daddy comes
25 out the front door? It couldn't happen that way.

1 The police were there when Dexter Hall was
2 in the house and this defendant was found cowering
3 behind the bushes after having just abandoned the
4 car. That was his opening. That was what his
5 evidence was going to show..

6 There is no dispute that the cars there.
7 Mr. Rader indicated that we were attempting to
8 belittle the defendant's injury. I am not
9 belittling his injuries. He was shot with a gun.
10 If he was shot with a gun in his elbow, I don't
11 know, but I know this, that no officer testified
12 that he had a sling on that night. Nobody
13 testified that the defendant had a sling on at all
14 that night. He certainly is capable of driving a
15 car, because he told you that.

16 Let's take a look at these medical records.
17 There is a document dated December 4, 1998, date
18 of request 12/2/98. This is a form filled out by
19 the defendant to the hospital, to the Justice
20 Center's personnel. It says I went to the hand
21 doctor two weeks ago. The hand doctor ordered a
22 few things for me. Pain medication was one. So
23 he has been to the hand doctor, they ordered a few
24 things for him. One of the things was pain
25 medication.

1 These reports look pretty thick. When you
2 look through the reports, I would say the majority
3 of the reports contain some other conditions the
4 defendant had -- kidney stones. But then look at
5 the December 4th entry from the defendant
6 requesting pain medication along with other things
7 that the doctor recommended, then look at the one
8 dated December 14, 1998, and under "treatment
9 provided," I believe it's a splint and an isotomer
10 glove. December 14th is when those items were
11 given to him for the treatment of this injury.
12 There is no other evidence indicating that he
13 received that sling beforehand or anything else.
14 The first notation of that is on December 14,
15 1998.

16 I'm not saying he was not shot. I'm not
17 saying that it might not have hurt. I'm saying he
18 was wearing that sling in court in an attempt to
19 mislead you as to the severity of the injuries for
20 you to believe that he was incapable of driving a
21 car that night.

22 Let's talk about the refusal to sign the
23 rights waiver. Mr. Rader says, why would anybody
24 refuse to sign a rights waiver if had he wanted to
25 give a voluntary statement. It happens every day.

1 The police give a defendant -- advise him of his
2 rights, and they say, "I understand that, and I
3 don't want to sign anything." Do we see that
4 anywhere else? Yes, Fredrick Hall's medical
5 report dated 10/23/98. They are trying to treat
6 him for the medical injuries that he sustained.
7 He refused the finger splint. He refused medical
8 treatment.

9 How about the entry dated 12/23/98?
10 Refused.

11 MR. RADER: Objection, your Honor.

12 THE COURT: Overruled.

13 MR. ANDERSON: It's right there on this
14 page and you can look at them -- refused. He
15 refused medical treatment for these injuries that
16 he apparently sustained. What is preventing him
17 from refusing to sign a rights waiver?

18 Mr. Rader talks about the inculpable
19 statement, what he feels is the most inculpable
20 statement that the defendant made, that he was out
21 buying shaving cream. I would submit to you that
22 is something that the defendant made up when he
23 was put on the spot because he was caught cowering
24 behind the bushes behind the car. He made it up.
25 He was going to stick to that story as long as he

1 could.

2 Then Mr. Rader indicated there is a cloud
3 over his statement. There is no written statement
4 in this case. He is right. The defendant did not
5 give a written statement. Officer Huffman took
6 notes of that statement, but you saw the defendant
7 on the witness stand. I asked the defendant:
8 "Tell the ladies and gentlemen of the jury
9 everything that you told the police that night.

10 "I don't remember.

11 "Tell them what you told them.

12 "I don't remember.

13 "Well, did you tell them about the shaving
14 cream?

15 "Yes, I think I might have.

16 "Did you tell them about picking up some guy
17 named Dave?

18 "I might have said that, too."

19 But he doesn't remember anything that he
20 said. Either he does not remember or he does
21 remember it, and he doesn't want to tell you
22 because it confirms everything that officer
23 Huffman indicated that he said in his statement.

24 Ladies and gentlemen, this car was used in
25 the shooting. This defendant Fredrick Hall was

1 operating the car. Dexter was at home. Officer
2 Bailey saw him. Officer Bailey chased him.
3 Officer Bailey identified him. Johann Hart
4 identified him. Kevin Davis identified him.

5 Proof beyond a reasonable doubt. Can you
6 say that you are firmly convinced of the truth of
7 the charge? He says Dexter was driving the car
8 with his friends. Dexter was at home. He was
9 driving the car and Officer Bailey was chasing
10 him. Carefully consider the evidence. Carefully
11 assess the credibility of the witnesses that you
12 have heard from the witness stand and render a
13 true and just verdict in this matter, a true and
14 just verdict in this case, a verdict of guilty as
15 charged against Fredrick Hall for the cold-blooded
16 shooting of Johann Hart and Kevin Davis

17 (EXCERPT ENDS.)
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